IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 2ND JANUARY 2007 / 12TH PAUSHA 1928

OP.No. 27238 of 2000(P)

PETITIONERS:

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1. **KARTHIAYANI, W/O.LATE N.A.KRISHNAN, RETIRED SCHOOL HEADMASTER, RESIDING AT HOUSE NO.i/515, NAMBYAMTHURUTH, UDAYAMPEROOR PANCHAYATH, KANDANAD P.O.**

2. **N.K.PRADEEP, S/O.LATE N.A.KRISHNAN, RESIDING AT HOUSE, NO. N-620. SECTOR 28, NOIDA, 201301 U.P.**

3. **N.K.PRAMEELA, W/O.SUNILKUMAR, KARTHIKA, TRIPPUNITHURA.**

4. **N.K.PRAVEEN, S/O. LATE N.A.KRISHNAN, HOUSE NO. I/515, UDAYAMPEROOR, PANCHAYATH, KANDANAD.**

5. **N.K.PRASEED, S/O. LATE N.A.KRISHNAN, RESIDING AT HOUSE NO.N-620, SECTOR 25, NOIDA U.P.**

BY ADV. SRI.K.V.KUMARAN
SRI.SUKUMARAN THOOYATH

RESPONDENTS:

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1. **STATE OF KERALA , REP.BY ITS CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR GENERAL OF POLICE, THIRUVANANTHAPURAM.**

3. **SHRI.N.N.PRASAD, THE SUB INSPECTOR OF POLICE MULANTHURUTHY.**

4. SHRI.C.K.KESAVAN, POLICE CONSTABLE PCE 7033, MULANTHURUTHY POLICE STATION, MULANTHURUTHY,

5. SMT.NADEERA MOIDU, OFFICE SUPERINTENDENT, OFFICE OF THE DSP (RURAL) ALUVA.

6. SMT.M.K.SANTHAKUMARI, TYPIST, OFFICE OF THE DSP(RURAL) ALUVA.

7. SRI. N.A.KUTTAPPAN, RESIDING AT NGO QUARTERS NO. TYPE 11/13, ALUVA.

8. DR.K.G.GOPINATH, CIVIL SURGEON, GOVERNMENT HOSPITAL, MULANTHURUTHY.

9. SHRI.T.M.SALIM, TAHSILDAR, KANAYANNUR, ERNAKULAM.

BY

SRI.K.C.CHARLES
SRI.A.BALAGOPALAN
SRI.PRAKASH P.GEORGE
SRI.K.M.SATHYANATHA MENON
SRI.C.N.SAMEER
SRI.BOBBYMATHEW KOOTHATTUKULAM
GOVERNMENT PLEADER SRI.SURARSHAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

O.P. No. 27238 OF 2000 P

Dated this the 2nd day of January, 2007

J U D G M E N T

Petitioners are the legal heirs of late Krishnan Master, who according to the petitioners, has died because of torture in police custody. According to the petitioners, the said Krishnan Master was taken into police custody by respondents 3 and 4 on an allegation of theft of teak wood tree and in the police station he was brutally assaulted. Thereafter, he was taken to the hospital, where he had died. The petitioners now claim a direction to the Director General of Police to consider Ext.P4 representation and also for a direction to pay compensation of Rs.10 lakhs to the petitioners for the death of the said Krishnan Master.

2. The 3rd respondent has filed a counter affidavit in which the entire allegations of the petitioners have been stoutly denied. The 3rd respondent categorically denies that the said Krishnan Master was in any way physically harmed by respondents 3 and 4. According to him, he was only summoned to the police station for questioning regarding a complaint and while he was leaving the police station, he felt some discomfort, as a result of which he was taken to the hospital where he

died. The 3rd respondent denies that the death of the said Krishnan Master was due to any action on the part of the police.

3. The counsel for the petitioners is absent and, therefore, I was constrained to dispose of this original petition after hearing the learned Government Pleader.

4. Strangely neither in the original petition nor in the counter affidavit the cause of death of the said Krishnan Master is not mentioned. In any event, whether the death was on account of the police torture or not is a matter for evidence, which I cannot decide in proceedings under Article 226 of the Constitution of India. In the above circumstances, I do not find any merit in the original petition. Accordingly, the same is dismissed. However, this will not prejudice the rights of the petitioners to seek appropriate other remedies in accordance with law.

(S. SIRI JAGAN, JUDGE)

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S. SIRI JAGAN , J.

OP No.27238/00 P

J U D G M E N T

2nd January, 2007